IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S. MANIKUMAR

Habeas Corpus Petition No.505 of 2006

Gowri ... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Collector and District
Magistrate,
Thiruvannamalai District. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the second respondent, pertaining to the detention order made in DO NO.30 of 2006 C.2 dated 03.05.2006 and quash the same and direct the respondents to produce the person or body of the detenu Rajendran, aged about 38 years S/o Ganesan, who is confined in the Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr.O.S. Thilak Pasumbadiyar
For Respondents : Mr.M. Babu Muthu Meeran
Addl. Public Prosecutor

..

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Rajendran, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 03.05.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated Nil was received by the Government on 10.05.2006 and remarks were called for on 11.05.2006. Thereafter, the remarks were received by the Government on 22.05.2006 and the File was submitted on 23.05.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same day i.e., on 23.05.2006 itself and finally, the Minister for Prohibition and Excise passed orders on 24.05.2006. The rejection letter was prepared on 24.05.2006 and the same was sent to the detenu on 25.05.2006 and served to him on 27.05.2006. As rightly pointed out by the learned counsel for the petitioner, though the representation was sent to the sponsoring authority to call for remarks from them on 15.05.2006, only on 23.05.2006, the sponsoring authority has sent a report to the Government, there is no explanation at all for taking time for sending the remarks. In the absence of any explanation by the person concerned, we are of the view that the time taken by the sponsoring authority is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to the Government,
State of Tamil Nadu,Prohibition and
Excise Department,
Fort St. George, Chennai-600 009.

2.The District Collector and District
Magistrate, Thiruvannamalai District.

3. The Superintendent, Central Prison,
Vellore.

4. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

JRG (CO)
km/29.8.

HCP. No.505 of 2006

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